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SUMMARY RECORD OF THE 66th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 26 April 2000, at 3.15 p.m.

Chairman: Mr. SIMKHADA (Nepal)

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GE.00-13603 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEMS 13, 17, 10 AND 18

Draft resolutions under agenda item 13

Draft resolution E/CN.4/2000/L.62 (Question of draft optional protocols to the Convention on the Rights of the Child on involvement of children in armed conflict and on the sale of children, child prostitution and child pornography)

1. The CHAIRMAN took note with satisfaction of the adoption at the preceding meeting of draft resolution E/CN.4/2000/L.62, which he had sponsored. It was exceptional and worth pointing out that the Commission had adopted two international human rights instruments in the same year.

Draft resolutions under agenda item 17

Draft resolutions E/CN.4/2000/L.80 (The role of good governance in the promotion of human rights) and E/CN.4/2000/L.103 (Cuba: amendments to draft resolution E/CN.4/2000/L.80)

2. Mr. REYES RODRIGUEZ (Cuba) said that, in view of the prevailing climate of cooperation, the Cuban delegation had decided to withdraw its proposed amendments (E/CN.4/2000/L.103). It was nevertheless still concerned about the meaning of the expression "good governance" and considered that there should be a proper definition of the concept, which was being widely discussed. The use of the word "good" could politicize discussions and impede dialogue. In its first amendment, his delegation had therefore suggested that the word should be deleted. In most United Nations texts, the words "responsibility, effectiveness and participation", which emphasized non-discrimination and transparency, were used to define "good governance". His delegation was also concerned about the issue dealt with in the third amendment on the need to broaden and strengthen the participation of developing countries in the international economic decision-making process through its democratization. That question was raised in the second preambular paragraph of the draft resolution, in which the Commission recognized "the importance of a conducive environment, at both the national and the international levels, for the full enjoyment of all human rights". However, the third preambular paragraph did not refer to the international level.

3. Although his delegation had decided in a spirit of cooperation, to withdraw its amendments, it was not sure whether the concept of good governance, on which understanding still had not been reached, should be discussed in the Commission. Since it could not join in the consensus on the draft resolution, his delegation requested that it should be put to the vote.

4. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union, thanked the main sponsors of the draft resolution, including Australia, South Africa, Poland, Chile and the Republic of Korea, for having debated the matter constructively and in a spirit of cooperation. The European Union was convinced that good governance had to be based purely on transparency and responsibility if it was to meet citizens' needs and aspirations and to ensure

the promotion of human rights. It was in that spirit that the States had to put their resources at the service of human development, as effectively and sustainably as possible. The principle of good governance formed the basis for and was the key element of the partnership between the European Union and 71 African, Caribbean and Pacific countries. Consequently, the European Union endorsed the draft resolution under consideration and thanked the Cuban delegation for having withdrawn its proposed amendments.

5. Mr. LABBE (Chile), speaking on behalf of the sponsors, also thanked the Cuban delegation for having withdrawn its amendments in order to facilitate the adoption of the draft resolution. The sponsors had noted the Cuban delegation's point of view on the text and respected it, even if they did not share it.

6. A number of Latin American delegations had joined his delegation in expressing their disagreement with the use of the term "buena gobernación" in the Spanish version of the draft resolution. The correct term was "buen gobierno". His delegation therefore requested that the Spanish version should be amended accordingly.

7. Mr. BHATTI (Pakistan) said that the concept of good governance had given rise to a great deal of discussion and it was therefore hardly surprising that the Commission had requested its members' views on the subject. In Pakistan, the concept was synonymous with responsibility and transparency on the part of the Government, which acted with a view to creating an egalitarian society in which all citizens could live in dignity and freedom. At the international level, the expression "good governance" had still not been clearly defined; it therefore remained subjective, could be interpreted in different ways and might be used to impose certain conditions on other States.

8. His delegation would therefore vote in favour of the draft resolution, on the understanding that it was up to each State to define the concept of good governance in terms of its own specific situation.

9. Mr. CHOWDHURY (Bangladesh) said it was true that the concept of good governance was not sharply defined, but, oftentimes, to define was also to limit. In any event, good governance, at the heart of which lay transparency, responsibility, accountability and participation, could result only from a combination of national and international cooperative endeavours. Bangladesh was a democratic country that sought to contribute by all means and in every forum to everything that could enhance the individual's quality of life. The Bangladesh delegation believed that that was the meaning of the draft resolution and would therefore vote in favour of it.

10. Mr. SABHARWAL (India), recalling that no consensus had emerged on a precise definition of the term "good governance", said that it must be based on transparency, responsibility, accountability and participation. Good governance was also contextual in nature and it was therefore up to each State to determine good governance practices and continuously to strengthen them, no matter what its level of development. The concept was therefore relevant to all countries and not only to developing countries. Lastly, international development cooperation should not be made conditional on the application of prescriptive good governance practices. The draft resolution met those concerns and his delegation would therefore vote in favour of it.

11. Ms. XU Jing (China) said that the international community had not been able to agree on the meaning of the term "good governance", which remained ambiguous and controversial and could be a stumbling block in the process of international cooperation in the field of human rights. How a State functioned depended on its institutions, its past and its level of development. No single model or standard could be used to measure how well those institutions functioned.

12. Her delegation had suggested that the term "good governance" should be replaced by "responsible and transparent governmental institutions" and regretted that the sponsors had decided not to take account of that proposal. She would therefore abstain in the vote on the draft resolution.

13. Mr. ZIVKOVIC (Secretary) stated that draft resolution E/CN.4/2000/L.80 would have no financial implications.

14. At the request of the representative of Chile, a vote was taken by roll-call on draft resolution E/CN.4/2000/L.80.

15. Germany, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Brazil, Burundi, Canada, Chile, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of the Congo, Romania, Russian Federation, Rwanda, Senegal, Spain, Sri Lanka, Sudan, Swaziland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zambia.

Against: None.

Abstaining: China, Cuba.

16. Draft resolution E/CN.4/2000/L.80 was adopted by 50 votes to none, with 2 abstentions.

Draft resolution E/CN.4/2000/L.81 (Question of the death penalty)

17. Mr. MENDONÇA E MOURA (Portugal), introducing the draft resolution on behalf of the European Union and its 64 other sponsors, said that, for the Governments of the European Union, the abolition of the death penalty throughout the world was not a political objective like any other. Indeed, the death penalty was contrary to the fundamental right to life as defined in article 3 of the Universal Declaration of Human Rights. Besides the fact that execution was irreversible, the death penalty affected mainly people who were at a disadvantage for economic, social, ethnic or religious reasons and it did not have a deterrent effect on criminals. Those considerations had prompted the European Union to strengthen its commitment to the abolition of the death penalty and to reintroduce a draft resolution on the issue to the Commission.

18. In the draft resolution, the Commission called on the States that still maintained the death penalty gradually to reduce the number of offences for which the death penalty could be imposed and to establish a moratorium on executions. The aim was not only to strengthen the universal momentum observed in the past several years in favour of abolition of the death penalty, but also to appeal to the States that continued to apply the death penalty to ensure respect for minimum international standards. Indeed, in certain States, people were sentenced to death and executed after accelerated proceedings, whereas not only was the death penalty not to be imposed for any but the most serious crimes, it was to be carried out only pursuant to a final judgement rendered by an independent and impartial competent court. In addition, the right to appeal and the right to seek pardon or commutation of sentence should be guaranteed in all circumstances and information on the application of the death penalty made public. It was true that the decision to abolish the death penalty was basically within the sovereign jurisdiction of each State, but the international instruments adopted by the United Nations that subjected the application of the death penalty to strict conditions should be scrupulously respected. Lastly, the European Union believed that the abolition of the death penalty contributed to the enhancement of human dignity and to the progressive development of human rights. In the light of those considerations, he hoped that the draft resolution would receive the broadest possible support and be adopted by consensus.

19. Ms. IZE-CHARRIN (Secretary of the Commission) said that Mauritius, Bolivia, Israel, the Republic of Moldova and Haiti had joined the sponsors of the draft resolution.

20. Mr. SABHARWAL (India) said he regretted that the draft resolution under consideration had not been the subject of consultations open to all, as that might have resulted in a more balanced text. It was true that the international community had still not reached a consensus on the issue of capital punishment, as had been brought out very clearly during the consideration of a draft resolution on the subject at the fifty-fourth session of the General Assembly. It was also true that capital punishment should be imposed only for the most serious crimes and in accordance with international human rights standards. In India, the death penalty was administered only in extremely rare cases and was therefore the exception rather than the rule. Death sentences had to be confirmed by a higher court. Those sentenced to death also had the right to appeal to the Supreme Court and to file a mercy petition before the Governor of the State concerned or the President of India. The death penalty was never applied to pregnant women or to minors.

21. Although his delegation agreed with some parts of the draft resolution, it could not accept some of the demands made of States, in particular in paragraphs 3 (f), 4 (b) and 5. It therefore requested a joint roll-call vote on those three paragraphs and indicated that it would vote against them.

22. Mr. PARSHIKOV (Russian Federation) said that the Russian Federation had always scrupulously respected its obligations under the international instruments to which it was party, particularly with regard to the death penalty. His delegation would therefore vote in favour of the paragraphs in question and joined the sponsors of the draft resolution.

23. Mr. KOH (United States of America) said he shared the opinion of the draft resolution's sponsors that the death penalty should be imposed only in accordance with international law. It

should nevertheless be recalled that international law did not prohibit the death penalty, but rather limited its application to the most serious crimes and in strictly defined conditions. Accordingly, it was up to each nation to decide whether its domestic laws should or should not allow capital punishment in accordance with international standards. The United States Supreme Court had ruled that the application of the death penalty was consistent with the eighth amendment to the United States Constitution. All Americans agreed that guarantees of due process must always be observed and that the death penalty should therefore be applied only if fairness and legality and the relevant rules of international law had been rigorously observed.

24. His delegation would therefore vote against the draft resolution, as it had done in the previous three years.

25. Mr. ZIVKOVIC (Secretariat) said that the draft resolution under consideration would have no financial implications.

26. At the request of the representative of India, a vote was taken by roll-call on paragraphs 3 (f), 4 (b) and 5 of draft resolution E/CN.4/2000/L.81.

27. Poland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Brazil, Canada, Chile, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Italy, Latvia, Luxembourg, Mauritius, Mexico, Nepal, Norway, Peru, Poland, Portugal, Republic of the Congo, Romania, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, Venezuela.

Against: Bangladesh, Botswana, China, Cuba, India, Indonesia, Japan, Nigeria, Pakistan, Qatar, Republic of Korea, Rwanda, Sudan, Swaziland, United States of America.

Abstaining: Bhutan, Burundi, Guatemala, Madagascar, Morocco, Niger, Philippines, Senegal, Sri Lanka, Tunisia, Zambia.

28. Paragraphs 3 (f), 4 (b) and 5 of the draft resolution were adopted by 26 votes to 15, with 11 abstentions.

29. At the request of the representative of Portugal, a vote was taken by roll-call on draft resolution E/CN.4/2000/L.81, as a whole.

30. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Brazil, Canada, Chile, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Italy, Latvia, Luxembourg, Mauritius, Mexico, Nepal, Niger, Norway, Peru, Poland, Portugal, Republic of the Congo, Russian Federation, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, Venezuela.

Against: Bangladesh, Botswana, China, Indonesia, Japan, Nigeria, Pakistan, Qatar, Republic of Korea, Rwanda, Sudan, Swaziland, United States of America.

Abstaining: Bhutan, Burundi, Cuba, Guatemala, India, Madagascar, Morocco, Philippines, Senegal, Sri Lanka, Tunisia, Zambia.

31. Draft resolution E/CN.4/2000/L.81 as a whole was adopted by 27 votes to 13, with 12 abstentions.

Draft resolution E/CN.4/2000/L.83 (Towards a culture of peace)

32. Mr. CASTRO GRANDE (El Salvador), introducing the draft resolution on behalf of the sponsors, which had been joined by Madagascar, the Republic of the Congo, Cyprus, Cameroon, Algeria, Nepal, India, Angola and Togo, recalled that human rights and fundamental freedoms played a key role in the consolidation of a culture of peace. In the draft resolution, the Commission welcomed the adoption by the General Assembly in September 1999 of the Declaration and Plan of Action on a Culture of Peace and strongly reiterated its invitation to States to promote a culture of peace based on the purposes and principles established in the Charter of the United Nations and in the Declaration and Programme of Action concerned. The establishment of a culture of peace was a prerequisite condition for moving forward on the path to respect for all human rights and all fundamental freedoms. The Commission could contribute to the consolidation of that culture of peace not only during the current year, which the General Assembly had proclaimed the International Year for the Culture of Peace, but also within the framework of the International Decade for a Culture of Peace and Non-Violence for the Children of the World, which would start in 2001.

33. His delegation hoped that, as in the past, the draft resolution would be adopted by consensus.

34. Mr. ZIVKOVIC (Secretariat), referring to the financial implications of draft resolution E/CN.4/2000/L.83 in accordance with rule 28 of the rules of procedure of the functional committees of the Economic and Social Council, said that the conference services required for the three-day panel/forum on a culture of peace in 2001 would be financed from existing resources. The relevant provisions had been made under section 22 of the proposed programme budget not only for the meetings that had already been planned at the time the budget had been drawn up, but also for those that might be authorized subsequently, if the number and distribution of the conferences and meetings corresponded to the pattern of recent years. As a result, the adoption of the draft resolution would not require any additional provision to be made under project 22 of the programme budget for the 2000-2001 biennium.

35. Mr. CASTRO GRANDE (El Salvador) noted that, according to the draft resolution, the forum on a culture of peace was to be held during the International Year for a Culture of Peace, i.e. in 2000. He therefore wished to know what the implications would be if the forum were held in 2001.

36. Mr. ZIVKOVIC (Secretariat) said that the financial implications would be the same because the biennium covered two years, 2000 and 2001.

37. Draft resolution E/CN.4/2000/L.83 was adopted without a vote.

Draft resolution E/CN.4/2000/L.84 (Status of the International Covenants on Human Rights)

38. Mr. HUHTANIEMI (Observer for Finland), introducing the draft resolution on behalf of the sponsors, said that it emphasized the importance of the International Covenants on Human Rights which, together with the Universal Declaration of Human Rights, formed the core of the International Bill of Human Rights. The Commission also recognized the role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in examining the progress made by States parties in implementing their obligations under those instruments and making recommendations to them in that regard. States which had not yet become party to those instruments were invited to do so and to consider limiting the extent of any reservations they formulated to those instruments and to ensure that no reservation was incompatible with the object and purpose of the relevant treaty or otherwise contrary to international law. The draft resolution took stock of the general comments recently adopted by the two Committees and the problems confronting them. One of those problems, mentioned in paragraph 8, was difficult to deal with in the context of the draft resolution and the sponsors had therefore decided to delete it in order to facilitate the adoption of the resolution. The subsequent paragraphs would be renumbered accordingly.

39. His delegation hoped that the draft resolution, as amended, would be adopted without a vote.

40. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Venezuela, Austria, Ukraine, Australia, Cyprus, Slovakia, Slovenia, New Zealand, the former Yugoslav Republic of Macedonia, Sweden and Uruguay had joined the sponsors of the draft resolution.

41. Mr. ZIVKOVIC (Secretariat) indicated that the draft resolution would have no financial implications.

42. Draft resolution E/CN.4/2000/L.84, as amended, was adopted without a vote.

Draft resolution E/CN.4/2000/L.85/Rev.1 (Impunity)

43. Ms. VENTURA (Canada), introducing the draft resolution, said that it was the result of a consensus among a broad range of States. The inability of States to hold persons who committed flagrant human rights violations accountable for their acts was one of the main reasons that atrocities such as genocide, summary executions, enforced disappearances and torture continued to take place. The purpose of the draft resolution was to condemn that state of affairs and stress the importance of the mechanisms set up in certain States to expose such violations, including commissions of inquiry and commissions for achieving truth and reconciliation.

44. All countries were also encouraged to sign and ratify the Rome Statute of the International Criminal Court, to participate actively in the work of the preparatory commission and to support the work of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. The Secretary-General was requested to seek the views of Governments and intergovernmental and non-governmental organizations on the possible appointment of an independent expert charged with examining all aspects of the issue of impunity for perpetrators of human rights violations. Her delegation hoped that all States would respond to the appeal made to them in the draft resolution.

45. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Paraguay, Ethiopia, Denmark, Norway, the United States of America, Italy, Slovenia, Ireland, the Netherlands, Haiti, Sweden, Greece, Austria, Latvia, the former Yugoslav Republic of Macedonia, Romania and Uganda had joined the sponsors of the draft resolution.

46. Mr. PETIT (France) said that France was committed to the fight against impunity and had therefore firmly endorsed and even sponsored the draft resolutions on the subject. Although the work of the Sub-Commission and the treaty bodies had moved the international community's reflection and practice on the issue forward, there was still a great deal to be done in that regard and the main objective of a resolution on impunity must be to draw clear guidelines for the future. His delegation therefore deeply regretted the fact that, despite its repeated requests, the draft resolution did not explicitly refer to the Set of principles for the protection and promotion of human rights through action to combat impunity, appended by Mr. Joinet to his final report on impunity (E/CN.4/Sub.2/1997/20/Rev.1) or to certain questions raised by Mr. Guissé in his final report on the impunity of perpetrators of violations of economic, social and cultural rights (E/CN.4/Sub.2/1997/8). The draft resolution under consideration was in fact the outcome of the merger of two complementary but different texts submitted separately the previous year on the impunity of perpetrators of violations of both categories of rights. From the legal point of view, however, the question of impunity was not the same for those two categories of rights. His delegation therefore doubted whether a single expert should be requested to study the matter as a whole. For that reason, it had not joined the draft resolution's sponsors, but it would not oppose the resolution's adoption by consensus.

47. Mr. REYES RODRIGUEZ (Cuba), thanking Canada for its praiseworthy efforts to reconcile all points of view on the question of impunity, said that his delegation would also have liked the draft resolution to refer explicitly to the reports of Mr. Joinet and Mr. Guissé, respectively, but it nevertheless welcomed the fact that, in the draft resolution, the Commission recalled that impunity had to be combated for all human rights violations in all their forms and regardless of the category of rights.

48. Mr. ZIVKOVIC (Secretariat), introducing the financial implications of the draft resolution under consideration in accordance with rule 28 of the rules of procedure of the functional committees of the Economic and Social Council, said that the resources required to provide the States, at their request and as indicated in paragraph 8 of the draft resolution, with concrete and practical assistance and cooperation in seeking to achieve the draft resolution's goals, amounted to an estimated $45,300 in 2000, which corresponded to the temporary

assistance of a P-4 Secretariat staff member for six months. As no provision had been made under section 22 of the programme budget for the present biennium, those activities would be financed by extrabudgetary resources.

49. Draft resolution E/CN.4/2000/L.85/Rev.1 was adopted without a vote.

Draft resolution E/CN.4/2000/L.86 (Fundamental standards of humanity)

50. Mr. WILLE (Norway), introducing the draft resolution on behalf of the sponsors, recalled that the question of fundamental standards of humanity had been examined by the Commission since 1995 and that the relevant draft resolution had always been adopted without a vote. He emphasized that the report submitted to the Commission by the Secretary-General on that question was a very useful reference document. In the draft resolution, the Commission requested the Secretary-General, in consultation with the International Committee of the Red Cross, to submit a further report on developments in that area to the Commission at its fifty-seventh session. It also invited States, international organizations and non-governmental organizations to engage in discussions in relevant forums on the strengthening of protection of the individual in all situations.

51. His Norwegian delegation hoped that the draft resolution would be adopted without a vote.

52. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Argentina, Ecuador, Hungary, Ireland, Slovakia and Uruguay had become sponsors of the draft resolution.

53. Mr. ZIVKOVIC (Secretariat) said that the draft resolution under consideration would have no financial implications.

54. Draft resolution E/CN.4/2000/L.86 was adopted without a vote.

Draft resolution E/CN.4/2000/L.87 (Enhancement of international cooperation in the field of human rights)

55. Mr. MONTWEDI (Observer for South Africa), introducing the draft resolution on behalf of the States members of the Non-Aligned Movement and China, said that the draft resolution underlined the importance of mutual understanding, dialogue, cooperation, transparency and confidence-building. The Commission reaffirmed that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, in a manner consistent with the purposes and principles of the Charter of the United Nations.

56. His delegation recalled that the draft resolution on the enhancement of international cooperation in the field of human rights had always been adopted by consensus in previous years and invited the Commission to adopt the draft resolution under consideration without a vote.

57. Mr. ZIVKOVIC (Secretariat) indicated that the draft resolution under consideration would have no financial implications.

58. Draft resolution E/CN.4/2000/L.87 was adopted without a vote.

Draft resolution E/CN.4/2000/L.95 (United Nations Decade for Human Rights Education)

59. Mr. GUILLERMET (Observer for Costa Rica), introducing the draft resolution on behalf of the sponsors, recalled that, in 2000, a mid-term global evaluation would be carried out of progress towards the achievement of the Decade's objectives. It was important to underscore the fundamental role of human rights education and to urge all Governments to contribute further to the implementation of the Decade's Plan of Action.

60. The resolution's sponsors suggested that the words "indigenous peoples" in paragraph 4 should be replaced by "indigenous issues". They hoped that the draft resolution would be adopted by consensus, as in the past.

61. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Angola, Colombia, Cyprus, the Russian Federation, Finland, Greece, Israel, the Philippines and Uruguay had joined the sponsors of the draft resolution.

62. Mr. ZIVKOVIC (Secretariat) said that the draft resolution under consideration would have no financial implications.

63. Draft resolution E/CN.4/2000/L.95, as amended, was adopted without a vote.

Draft decision E/CN.4/2000/L.75 (Reservations to human rights treaties) (continued)

64. Ms. GLOVER (United Kingdom of Great Britain and Northern Ireland) read out a revised version of the draft decision:

> "The Commission on Human Rights, taking note of resolution 1999/27 of 26 August 1999 of the Sub-Commission on the Promotion and Protection of Human Rights and the working paper submitted by Ms. Françoise Hampson pursuant to Sub-Commission decision 1998/113 (E/CN.4/Sub.2/1999/28), decides to request the Sub-Commission to request Ms. Françoise Hampson to submit to the Sub-Commission at its fifty-second session revised terms of reference for her proposed study on reservations to human rights treaties further clarifying how this study would complement work already underway on reservations to human rights treaties, in particular by the International Law Commission."

65. Her delegation hoped that the draft decision, as amended, would be adopted by consensus.

66. Mr. ZIVKOVIC (Secretariat) recalled that he had read out the financial implications of the draft resolution at the preceding meeting and there had been no change in that information.

67. Draft decision E/CN.4./2000/L.75, as revised, was adopted without a vote.

68. The CHAIRMAN indicated that that draft decision cancelled and replaced draft decision 8 of the Sub-Commission.

Statements in explanation of vote after the vote

69. Mr. SUN Ang (China), explaining why his delegation had abstained in the vote on draft resolution E/CN.4/2000/L.37, pointed out that mechanisms for ensuring the implementation of the Declaration on the Right and Responsibility, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms already existed. The creation of a new mechanism was therefore pointless and contrary to the efforts being made to rationalize the work of the Commission. Instead of establishing a new mandate in haste, it would be more appropriate to study the obstacles encountered and to determine which problems warranted the Commission's attention with a view to promoting the implementation of the Declaration.

70. Mr. SABHARWAL (India) explained that his delegation had voted in favour of draft resolution E/CN.4/2000/L.37 even though it had had concerns with various elements of the text, beginning with the absence of an internationally agreed or accepted definition of the term "human rights defenders". It would also have preferred to mainstream the work of implementing the relevant Declaration among the Commission's existing mechanisms. His delegation's vote was a measure of its commitment to defending the rights of those who were active in promoting and protecting human rights. It hoped that the Special Representative would discharge his or her responsibilities in accordance with the provisions of the Declaration and that the Declaration and the draft resolution would be used advisedly to strengthen the protection of genuine defenders of human rights.

71. Mr. LEGWAILA (Botswana), referring to the three paragraphs of draft resolution E/CN.4/2000/L.81 that had been put to a separate vote, explained that his delegation had been against paragraph 4 (b) and paragraph 5, but had had no objection to paragraph 3 (f). No one was executed in Botswana while legal proceedings concerning them were still under way.

72. Mr. SUTOYO (Indonesia), speaking also on behalf of the delegations of 51 other countries (Antigua and Barbuda, Bahrain, Bangladesh, Barbados, Brunei Darussalam, Burundi, China, Democratic People's Republic of Korea, Egypt, Eritrea, Ghana, Grenada, Guyana, Fiji, Indonesia, Iraq, Islamic Republic of Iran, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Oman, Philippines, Qatar, Rwanda, St. Lucia, St. Kitts and Nevis, Saudi Arabia, Sierra Leone, Singapore, Sudan, Suriname, Swaziland, Syria, Tanzania, Thailand, Togo, Trinidad and Tobago, United Arab Emirates, Viet Nam, Yemen, Zimbabwe), said that those delegations did not endorse the draft resolution on the death penalty (E/CN.4/2000/L.81) adopted by the Commission. They believed that every State had the right to choose its political, economic,

social, cultural and legal system without interference from other States and that that right was inalienable. The question whether to retain or abolish the death penalty should be carefully studied by each State and should not be the subject of a universal decision.

73. The delegations concerned had drawn up a statement in which they provided a detailed explanation on that point and requested that the full statement should be circulated as an official document of the Commission's fifty-sixth session.

74. Mr. CHATTY (Tunisia) explained that his delegation had abstained in the vote on draft resolution E/CN.4/2000/L.81 because executions were de facto non-existent in Tunisia, except for particularly foul crimes that had especially shocked public opinion. No one had been executed in the country since 1992.

Draft resolutions under agenda item 10

Draft resolution E/CN.4/2000/L.97 (Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights)

75. Ms. MBONU (Nigeria), introducing the draft resolution on behalf of the States members of the African Group, said she regretted that the Commission did not have before it the report of the Special Rapporteur on toxic wastes. The fact that the report was unavailable had made it difficult for delegations to have a clear idea of the Special Rapporteur's activities in the framework of her mandate and had also delayed the preparation and processing of the draft resolution.

76. Following the broadest possible consultations, three new paragraphs, paragraphs 1, 2 and 12, had been inserted in the draft resolution. The topic of the draft resolution was a matter of special importance to developing countries, where the lack of national capacity to cope with the increasing rate of illicit movement and dumping of hazardous and other wastes constituted a serious threat to the human rights to life, good health and a sound environment for all. It was crucial for the members of the Commission to act together in a positive, non-selective and non-prejudiced manner to put a stop to those violations and to combat impunity in that area. The fate of billions of people was at stake.

77. The African Group, pointing out that the draft resolutions underlying principles were those of the indivisibility and interrelatedness of human rights, hoped that it would be adopted by consensus.

78. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Haiti had joined the sponsors of the draft resolution.

79. Mr. ZIVKOVIC (Secretariat) said that the draft resolution under consideration had no financial implications.

Statements in explanation of vote before the vote

80. Mr. HARAGUCHI (Japan) said that his country recognized the seriousness of the problem of the illicit movement and dumping of toxic products and wastes and shared the concerns of the draft resolution's sponsors. However, it considered that the Commission on Human Rights was not an appropriate forum to address the matter. His delegation would therefore vote against the draft resolution.

81. Mr. BATCHELOR (United States of America) said that the work of the Special Rapporteur replicated that of other United Nations bodies and international organizations referred to in paragraph 6 of the draft resolution. The United States considered that the most appropriate forum was the secretariat of the Basel Convention, whose mandate covered all aspects of the international trade in toxic wastes, including illicit trade. It was therefore unable to support the draft resolution under consideration.

82. Mr. HYNES (Canada) said that he shared the point of view of the Japanese and United States delegations. He requested that the draft resolution should be put to the vote and announced that he would vote against it.

83. At the request of the representative of Nigeria, a vote was taken by roll-call on draft resolution E/CN.4/2000/L.97.

84. Italy, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Brazil, Burundi, Chile, China, Colombia, Cuba, Ecuador, El Salvador, Guatemala, India, Indonesia, Liberia, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Republic of the Congo, Rwanda, Senegal, Sri Lanka, Sudan, Swaziland, Tunisia, Venezuela, Zambia.

Against: Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Portugal, Romania, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: None.

85. Draft resolution E/CN.4/2000/L.97, as amended, was adopted by 37 votes to 16.

Draft resolutions under agenda item 18

Draft resolution E/CN.4/2000/L.79 (Composition of the staff of the Office of the United Nations High Commissioner for Human Rights)

86. Mr. REYES RODRIGUEZ (Cuba), introducing the draft resolution, said that the basic idea was to highlight the fact that, since human rights were the foundation of the United Nations

system's policies, the secretariat providing technical support to all bodies concerned with human rights played an essential ideological and political role in the smooth conduct of the work of all international mechanisms for the protection and promotion of human rights. It therefore had to have suitable personnel, i.e. a staff composed of people with the highest standards of efficiency, competence and integrity, a requirement that was compatible with the principle of equitable geographical distribution and that took account of Article 101, paragraph 3, of the Charter of the United Nations. The draft resolution made a fresh appeal for everything to be done to ensure the equitable geographical distribution of posts in the Office of the High Commissioner. In that regard, the High Commissioner for Human Rights was invited to consider the establishment of a task force with the mandate to work in cooperation with relevant components of the United Nations Secretariat in the recruitment and training of qualified personnel from developing countries for the staff of the Office (para. 4).

87. If people from developing countries did not have training, they would not have the high standards of competence required at the time of their recruitment, contrary to developed countries' representatives, whose names were submitted by their respective Governments to provide auxiliary services free of charge and who were therefore much better prepared. The annex to the draft resolution clearly showed that the Group of Western European and Other States had far and away more representatives in the Office of the High Commissioner than all the other regional groups. The fact that the draft resolution was sponsored by a very large number of delegations was evidence of the fact that the present situation was no longer acceptable. With the draft resolution, the sponsors reiterated their hope that the present composition of the staff of the Office of the High Commissioner would finally be improved in favour of more equitable geographical distribution. Those staff members were responsible for preparing reports to be submitted to the Commission, providing technical assistance in the field to countries requesting it and providing support services to rapporteurs and working groups and much of the output of the Commission and the other United Nations bodies dealing with human rights therefore depended on them.

88. His delegation and the other sponsors hoped that the draft resolution would be given broad support.

89. Ms. IZÉ-CHARRIN (Secretary of the Commission) announced that Equatorial Guinea had joined the sponsors of the draft resolution.

90. Mr. HYNES (Canada) said he agreed that the human rights programme was extremely important, but did not think that was a reason to give it special consideration. To clarify matters, he pointed out that, as demonstrated by the Secretary-General's report (A/53/375), no group was clearly overrepresented in the Office of the High Commissioner for Human Rights and the question of the composition of the staff was clearly a matter to be dealt with not by the Commission, but, according to Article 101 of the Charter, the United Nations Secretary-General. His delegation would therefore vote against the draft resolution under consideration.

91. Mr. KOH (United States of America) endorsed the observations of the Canadian delegation and noted that the draft resolution's sponsors had turned Article 1 of the Charter on its head by reversing the priorities: the main consideration in recruitment must be the need to provide the Organization with the services of people having the highest standards of efficiency,

competence and integrity. While he was certain that the Office of the High Commissioner for Human Rights would welcome qualified and experienced staff from any part of the world, he would expect the High Commissioner to oppose pressure to hire personnel, including junior professional officers, irrespective of their qualifications, merely because they came from a particular region. His delegation would therefore vote against the draft resolution.

92. Mr. REYES RODRIGUEZ (Cuba) said that an error had been made in the Spanish version of the draft resolution: in the annexed table, the headings "Eastern European States" and "Western Europe and Other States" had been switched. If the draft resolution were put to a vote, his delegation would like it to be a roll-call vote.

93. Mr. ZIVKOVIC (Secretariat) said that the adoption of draft resolution E/CN.4/2000/L.79 would have no financial implications. Noting that certain resolutions of the Commission on Human Rights referred to budgetary and administrative issues, he nevertheless wished to inform the Commission about the procedure that applied in respect of those matters. To that end, he read out a statement from the Director of the Programme Planning and Budget Division, drawing the Commission's attention to the provisions of General Assembly resolution 45/248, part B.VI., and requested that the text of the statement should be included in the Commission's report.

Statements in explanation of vote before the vote

94. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union and the Central and Eastern European countries associated with it and Cyprus and Malta, said that the Commission on Human Rights was not the right forum to discuss the question of the composition of the staff of the Office of the High Commissioner for Human Rights. Pursuant to Article 97 of the Charter, the Secretary-General was the chief administrator of the Organization and the European Union reaffirmed its full support for his prerogatives and responsibilities under Articles 100 and 101 of the Charter. It was the exclusive responsibility of the General Assembly to approve posts, financial resources and human resources management measures, while the Fifth Committee was responsible for administrative, budgetary and human resources management matters.

95. The European Union commended and supported the Secretary-General's efforts to ensure that all Member States were adequately represented in all the Secretariat's departments and noted with concern the significant reduction in the number of posts subject to geographical distribution and financed by the regular budget of the United Nations, notably at the P2 and P3 levels. The European Union drew attention to General Assembly resolution 53/221, which decided that the Office of Human Resources Management remained the central authority for the monitoring and approval of the recruitment and placement of staff, and strongly objected to the proposal contained in operative paragraph 4 of the draft resolution that a task force should be established, as such a request was contrary to the Charter and General Assembly resolutions. It would vote against the draft resolution.

95. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/2000/L.79.

96. Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Brazil, Burundi, China, Colombia, Cuba, Ecuador, El Salvador, Guatemala, India, Indonesia, Liberia, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of the Congo, Rwanda, Senegal, Sri Lanka, Sudan, Swaziland, Tunisia, Venezuela, Zambia.

Against: Canada, Chile, Czech Republic, France, Germany, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Russian Federation.

97. Draft resolution E/CN.4/2000/L.79 was adopted by 35 votes to 17, with 1 abstention.

Draft resolution E/CN.4/2000/L.82 (Human rights and thematic procedures)

98. Mr. SOMOL (Czech Republic), introducing the draft resolution, which underscored the extremely important role of thematic procedures among the human rights monitoring mechanisms, said that it made recommendations with a view to improving the thematic procedures, with which Governments and NGOs were encouraged to intensify their cooperation and which the Secretary-General and the High Commissioner for Human Rights were invited to support. The report of the Working Group on enhancing the effectiveness of the Commission's mechanisms was not directly quoted in the draft resolution, although certain passages from it could well have been. A significant change compared to previous years was the fact that attention was drawn to children and the members of other vulnerable groups, whose fundamental rights were often violated. His delegation hoped that the draft resolution, which had been the object of consultations that had been as transparent as possible, would be adopted by consensus.

99. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Israel, the Republic of Korea, Uruguay, Ireland and Sweden had joined the sponsors of the draft resolution.

100. Mr. FERNÁNDEZ PALACIOS (Cuba) acknowledged that a concern for dialogue had prevailed during the preparation of the draft resolution. His delegation had nevertheless wished for children and other vulnerable groups to be mentioned in two separate preambular paragraphs and thought that the consultations on that matter were not yet closed. It therefore requested that the consideration of the draft resolution should be slightly delayed.

101. Mr. SOMOL (Czech Republic) said that, although he was surprised to see that, despite efforts to reconcile the positions of all delegations, certain points were apparently still a source of contention, he was willing, in a spirit of cooperation, to agree that the consideration of the draft resolution should be postponed.

102. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission decided to postpone the consideration of draft resolution E/CN.4/2000/L.82.

Draft resolution E/CN.4/2000/L.89 (Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region)

103. Mr. REN Yisheng (China), introducing the draft resolution, said that it had been slightly amended. First, since Bhutan and Norway were members of the Commission, the asterisk following their names in the list of sponsors should be deleted. Secondly, the words "regional cooperation" in the last preambular paragraph should be replaced by "regional arrangements". Thirdly, in operative paragraph 2 the words "all the conclusions" should be replaced by "the respective conclusions".

104. The Asian and Pacific States attached great importance to regional cooperation to promote human rights and to the workshops regularly held in the region for that purpose. The draft resolution, which listed the achievements made in the field of regional cooperation, contained two new elements. The second preambular paragraph reiterated that one of the purposes of the United Nations was to achieve international cooperation in solving international problems and in promoting and encouraging respect for human rights and fundamental freedoms for all. In addition, paragraph 2 and other operational paragraphs mentioned the four regional inter-sessional workshops that had been held in 1999. His delegation noted that, for the first time, the draft resolution had been sponsored by a representative of a region other than Asia and the Pacific and hoped that it would be adopted by consensus.

105. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that Cyprus had joined the sponsors of the draft resolution.

106. Mr. ZIVKOVIC (Secretariat) indicated that the draft resolution would have no financial implications.

107. Draft resolution E/CN.4/2000/L.89, as amended, was adopted without a vote.

Draft resolution E/CN.4/2000/L.90 (Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights)

108. Ms. CHATSIS (Canada), introducing the draft resolution, said that it attempted to address some of the major challenges facing the human rights treaty bodies, the Secretariat and States parties in the fulfilment of their tasks and obligations. It stressed the need for the treaty bodies to have the required financial resources within the United Nations regular budget and, in the meantime, for extrabudgetary resources. It recognized the importance of technical cooperation for the States parties and highlighted the role of NGOs in disseminating information. Her delegation hoped that the resolution would be adopted by consensus.

109. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that the United Kingdom of Great Britain and Northern Ireland, the United States of America, Ukraine, Australia, Liechtenstein, Portugal, Angola and Japan had joined the sponsors of the draft resolution.

110. Mr. ZIVKOVIC (Secretariat) said that the draft resolution would have no financial implications.

111. Draft resolution E/CN.4/2000/L.90 was adopted without a vote.

Draft resolution E/CN.4/2000/L.91 (National institutions for the promotion and protection of human rights)

112. Mr. VAN DER WAL (Observer for Australia) introducing the draft resolution which, as attested by the number of sponsors, was evidence of the growing interest worldwide in the creation and strengthening of independent, pluralistic national institutions for the promotion and protection of human rights, said that, while recognizing that each State would choose the legal framework best adapted to its needs, his delegation had no doubt that the draft resolution would help States to develop effective national institutions in conformity with the Principles set out to that effect. The changes made since the previous year reflected the views of delegations and had strengthened the text, which, he hoped, would be adopted by consensus.

113. Ms. IZÉ-CHARRIN (Secretary of the Commission) announced that Cyprus, Indonesia, the Russian Federation and Togo had become sponsors of the draft resolution.

114. Mr. ZIVKOVIC (Secretariat) said that the adoption of the draft resolution would have no financial implications.

115. Draft resolution E/CN.4/2000/L.91 was adopted without a vote.

The meeting rose at 6 p.m.